

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CELSO GUTIERREZ SANCHEZ

Petitioner,

vs.

NO. CIV-10-413 WJ/WDS

UNITED STATES OF AMERICA

Respondent

ORDER

THIS MATTER comes before the Court on Petitioner Celso Gutierrez Sanchez's ("Petitioner") Motion/Petition in Matters Related to Court "Order" filed on September 23, 2010, [Doc. 14], and Respondent United States of America's ("Respondent") Response to the Motion filed October 7, 2010 [Doc. 15]. Having considered the Motion, the Response, and the applicable law, this Court finds that Petitioner's Motion is not well taken and it will be denied.

The history leading up to the current motion is as follows. On August 3, 2010, this Court entered its Proposed Findings and Recommended Disposition ("PFRD") in this matter. [Doc. 10]. In Petitioner's Reply to the PFRD filed August 20, 2010, Petitioner alleged that he never received a copy of Respondent's Response to Petitioner's Motion to Vacate, Set Aside or Correct a Sentence, and, accordingly, he had not been able to file a Reply to the Response. [Doc. 11]. Accordingly, this Court entered an order on September 1, 2010 ordering the Respondent to reserve its Response to Petitioner within seven days from the entry of the order and granting Petitioner twenty-one (21) days from receipt of the Response to file his Reply. [Doc. 12]. Additionally, on September 15, 2010, this Court withdrew its Proposed Findings and Recommended Disposition so that it could consider

Petitioner's Reply to the Response. [Doc. 13]. On September 23, 2010, Petitioner filed the Motion currently before the Court, which under a very liberal reading of the motion, this Court will construe as a Motion for Contempt. [Doc. 14]. Petitioner contends that as September 23, 2010, he still had not received a copy of the Response. In its Response to Petitioner's Motion, Respondent represents that it resent its Response on September 23, 2010. [Doc. 15]. To date, no Reply has been filed and Petitioner has made no further allegation that he has not received a copy of the Response.

Accordingly, Petitioner's Motion [Doc. 14] is denied. Petitioner has fourteen (14) days from receipt of this order to file his Reply to Respondent's Response.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE